

SECTION 9.
COMPENSATION, REIMBURSEMENT OF EXPENSES FOR
ELECTIVE OFFICERS, AND USE OF PUBLIC FUNDS

A. COMPENSATION OF ELECTIVE OFFICES

The Council establishes the compensation of City elective officers by ordinance.⁹⁷ Once compensation is fixed, it cannot be increased or diminished during an elective officer's term of office. The Council adopted a comprehensive compensation ordinance on July 18, 2000, Ordinance No. 2000-49, attached as an exhibit. Compensation for elective officers is currently fixed at \$99,360.00 for the Mayor, \$33,120 for Councilmembers presently serving their term of office, and \$44,510.50 for Councilmembers commencing a new term of office in 2001. Starting in 2001, compensation for the services of the Councilmember serving as Council President is \$49,680. The Council designated the Civil Service Board to review and study the City's elective officers' compensation every two years commencing in 2002, and to make appropriate recommendations to Council.

B. USE OF PUBLIC FUNDS

The use of public funds by elective officers begins with the premise that public funds must be used for authorized public purposes. In an early case, the California Supreme Court stated: "officials are not free to spend public funds for any 'political purpose' they may choose, but must use appropriated funds in accordance with the legislatively designated purpose."⁹⁸ The Charter⁹⁹ also prohibits officers and employees from using City equipment, City staff, City premises, or other resources for political purposes.

Once a public purpose is established, there must be legal authority to expend. The legal authority to expend is set forth in Resolution No. 95-112, which is attached in the Exhibits Section. We continue to recommend that Council update Resolution No. 95-112 as it sets forth amounts that may be outdated, and contains references to Administrative Instruction Orders that have been replaced with Administrative Order Manual. Under this Resolution, elective officers are entitled to receive reimbursement for Council authorized travel and other necessary expenses when on official duty according to standard City reimbursement procedures and policies. Reimbursement is allowed for only those expenses associated with carrying out official City business.

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⁹⁷ Charter § 308.

⁹⁸ *Mines v. Del Valle*, 201 Cal. 273 (1927).

⁹⁹ Charter § 813.

C. MASS MAILINGS AT PUBLIC EXPENSE

Elected officials must necessarily communicate with their constituents. However, the Political Reform Act discussed above in the Conflict of Interest Section has stringent rules regarding mass mailings sent at public expense.

The Political Reform Act provides: "No newsletter or other mass mailing shall be sent at public expense."¹⁰⁰ The FPPC adopted Regulation 18901 to implement the statutory provision. Regulation 18901(a)¹⁰¹ provides that a mailing is prohibited only if all the following apply:

- (1) The item sent is tangible and *delivered*, by any means, to the recipient at his or her residence, place of employment or business, or post office box.
- (2) The items sent either:
 - a. *Features* an elective officer affiliated with the agency which produces or sends the mailing, or
 - b. *Includes the name, office, photograph, or other reference to an elected officer* affiliated with the agency which produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer.
- (3)
 - a. Any of the costs of distribution is paid for with *public moneys*; or
 - b. Costs of design, production, and printing exceeding \$50.00 are paid with public moneys, and the design, production, or printing is done with the intent of sending the item other than as permitted by this regulation.
- (4) *More than two hundred* substantially similar items are sent, in a single calendar month.

We urge you to be extremely careful with your mailings and contact the FPPC or this office if you have any doubt as to whether a mailer is appropriate.

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¹⁰⁰ Gov. Code § 89001.

¹⁰¹ 2 Cal. Code Regs. § 18901.

D. MISUSE OF PUBLIC FUNDS

Violations of the laws prohibiting misuse of public funds may subject a violator to criminal and civil sanctions, including imprisonment and a bar from holding elective office. In a recent case, *People v. Bishop*,¹⁰² a Contra Costa County supervisor was charged with various counts for using county equipment and supplies for political purposes. She was sentenced to three years for each count (served concurrently and fined \$1,800).

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¹⁰² 2000 WEST LAW 520878 (March 13, 2000)(not officially published)(review denied Oct. 18, 2000).